

APPEAL NO. 020806
FILED MAY 28, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on March 26, 2002, with the record closing on March 27, 2002. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) reached maximum medical improvement (MMI) on April 19, 1999, with a 42% impairment rating (IR) as reported by the designated doctor chosen by the Texas Workers' Compensation Commission (Commission). The appellant (self-insured) appealed, contending that the claimant's IR should be 16% as reported by the carrier's required medical examination doctor. The self-insured states in its appeal that the April 19, 1999, MMI date is correct. With regard to the IR dispute, the self-insured contends that the designated doctor improperly rated an unratable lumbar fusion and did not justify the rating for the right knee. No response was received from the claimant.

DECISION

The hearing officer's decision is affirmed.

The claimant testified that she injured both knees, both hands, neck, back, and foot when she fell at work on _____. The MMI and IR disputes related to the 1997 injury. The medical records reflect that the claimant sustained a prior work-related injury in 1985 for which she underwent a lumbar spine fusion in 1987. The designated doctor's report on MMI and IR has presumptive weight and the Commission must base its determination of MMI and IR on that report unless the great weight of the other medical evidence is to the contrary. Sections 408.122(c) and 408.125(e). Contribution under Section 408.084 for a prior compensable injury was not an issue at the CCH. In Texas Workers' Compensation Commission Appeal No. 990610, decided May 6, 1999, the Appeals Panel noted that an IR must include all impairment for the compensable injury, that the designated doctor is not to reduce the impairment to account for a prior injury, and that the remedy for the carrier in such a circumstance is to seek contribution under Section 408.084. See also Texas Workers' Compensation Commission Appeal No. 93695, decided September 22, 1993. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**SUPERINTENDENT
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Robert W. Potts
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge